

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
Plaintiff, :
- v. - :
ANY AND ALL ASSETS HELD IN ACCOUNT : No. 15-CV-05063
NUMBERS 102162418400, 102162418260, AND :
102162419780 AT BANK OF NEW YORK MELLON :
SA/NV, BRUSSELS, BELGIUM, ON BEHALF OF :
FIRST GLOBAL INVESTMENTS SPC LIMITED'S :
"AAA RATED FIXED INCOME OF DEVELOPED :
ECONOMIES SEGREGATED PORTFOLIO," FUND :
ID AAARATEDFIX01, GENERAL ACCOUNT :
NUMBER 216241, AND ANY PROPERTY :
TRACEABLE THERETO, et al.

Defendants *in rem*.

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SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR
DEFAULT JUDGMENT AND ORDER OF FORFEITURE

In support of its Motion for Default Judgment and Order of Forfeiture, Plaintiff, the United States of America, through its undersigned counsel, submits the following supplemental memorandum of law.

1. The United States submitted a Motion for Default Judgment on June 29, 2015. Docket Entry No. ("DN") 12. In light of a recent stipulation entered into with the Republic of Uzbekistan, the United States now submits a revised order and memorandum of law, in support of its request that the Court issue an order of judgment by default against all potential claimants, other than the Republic of Uzbekistan, for failure to file a claim, answer, or other defense in this action with respect to the following Defendants *in rem* (the "Defendant Property"):

- a. Any and all assets held in account numbers 102162418400, 102162418260, and 102162419780 at Bank of New York Mellon SA/NV, Brussels, Belgium, on behalf of

First Global Investments SPC Limited’s “AAA Rated Fixed Income of Developed Economies Segregated Portfolio,” Fund ID AAARATEDFIX01, General Account Number 216241, and any property traceable thereto,

- b. Any and all assets held in account numbers 102165527100, 102165528400, and 102165529780 at Bank of New York Mellon SA/NV, Brussels, Belgium, on behalf of First Global Investments SPC Limited’s “Single Funds Segregated Portfolio,” Fund ID FGISINGLE01, CID number 3178750045, and any property traceable thereto,
- c. Any and all assets held in account numbers 102165517100, 102165518400, and 102165519780 at Bank of New York Mellon SA/NV, Brussels, Belgium, on behalf of First Global Investments SPC Limited’s “Hedge Fund of Funds Segregated Portfolio,” Fund ID HEDGEFOFS01, CID number 3178750029, and any property traceable thereto,
- d. Any and all shares of First Global Investments SPC Limited’s “AAA Rated Fixed Income of Developed Economies Segregated Portfolio,” “Single Funds Segregated Portfolio,” and “Hedge Fund of Funds Segregated Portfolio” held by or for the benefit of SWISDORN LIMITED in account number 11333701 at Bank of New York Mellon Investment Servicing (International) Limited in Ireland,
- e. Any and all shares of First Global Investments SPC Limited’s “Single Funds Segregated Portfolio” and “Hedge Fund of Funds Segregated Portfolio” held by or for the benefit of TAKILANT LIMITED in account number 11243201 at Bank of New York Mellon Investment Servicing (International) Limited in Ireland,
- f. Any and all shares of First Global Investments SPC Limited’s “Single Funds Segregated Portfolio” and “Hedge Fund of Funds Segregated Portfolio” held by or for the benefit of EXPOLINE LIMITED in account number 11333801 at Bank of New York Mellon Investment Servicing (International) Limited in Ireland,
- g. Any and all assets underlying the shares of First Global Investments SPC Limited’s “AAA Rated Fixed Income of Developed Economies Segregated Portfolio,” Fund ID AAARATEDFIX01, held in the custody of Bank of New York Mellon Trust Co. (Ireland) Limited, and any property traceable thereto,
- h. Any and all assets underlying the shares of First Global Investments SPC Limited’s “Single Funds Segregated Portfolio,” Fund ID FGISINGLE01, held in the custody of Bank of New York Mellon Trust Co. (Ireland) Limited, and any property traceable thereto,
- i. Any and all assets underlying the shares of First Global Investments SPC Limited’s “Hedge Fund of Funds Segregated Portfolio,” Fund ID HEDGEFOFS01, held in the custody of Bank of New York Mellon Trust Co. (Ireland) Limited, and any property traceable thereto,

- j. Any and all assets underlying the shares of First Global Investments SPC Limited's "Single Funds Segregated Portfolio," account ID BNY MIS/BNY AIS NOM.-FGI SPC S.FDS, held in account number 16780 at Clearstream Banking, S.A., Luxembourg, and any property traceable thereto, and
- k. Any and all assets underlying the shares of First Global Investments SPC Limited's "Hedge Fund of Funds Segregated Portfolio," account ID BNY/B. AIS N. AC F G IN SPC H FD FD, held in account number 16747 at Clearstream Banking, S.A., Luxembourg, and any property traceable thereto.

2. As indicated in Plaintiff's Motion for Default Judgment, DN 12, on June 29, 2015, the Plaintiff filed a Verified Complaint for Forfeiture *in Rem* (the "Verified Complaint"), alleging that the Defendant Property is subject to forfeiture in the United States, pursuant to 18 U.S.C. §§ 981(a)(1)(A) and 981(a)(1)(C), as proceeds traceable to a felony violation of the Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§ 78dd-1 *et seq.*, or property involved in money laundering or a conspiracy to commit money laundering, in violation of 18 U.S.C. §§ 1956(a)(1)(B) and 1957. DN1. The facts supporting these allegations are set forth in further detail in the Complaint, and incorporated as if set forth fully herein.

3. Pursuant to Rule G(4)(b)(i) of the Supplemental Rules, a Notice of Complaint for Forfeiture, the Verified Complaint, and other pertinent documents were delivered to last known addresses and/or legal representatives for Gulnara Karimova, Bekhzod Akhmedov, Alisher Ergashev, Rustam Madumarov, Gayane Avakyan, Shokrukh Sabirov, Expoline Limited, Swisdorn Limited, Takilant Limited, and First Global Investments. DN 12. The foregoing are the only persons known by the government to have a potential interest in the Defendant Property.

4. Additionally, notice of this civil forfeiture action was published on an official internet government forfeiture site, www.forfeiture.gov, for thirty (30) consecutive days, beginning on July 1, 2015, as required by Supplemental Rule G(4)(a)(iv)(C), and provided that

any party claiming a legal interest in the Defendant Property must file a verified Claim within sixty (60) days. DN 8. Notice of Publication was filed with the Court on October 30, 2015. *Id.*

5. No person or entity has filed a claim to the Defendant Property or answered the Verified Complaint, and the time to do so has expired. No extensions of time have been consented to or granted by this Court.

6. Upon information and belief, no person thought to have an interest in the Defendant Property is an infant, incompetent, or presently engaged in military service.

7. On November 3, 2015, the Clerk of Court entered default in the above captioned matter. DN 10. Upon entry of default by the clerk, the well-pleaded allegations in the complaint are deemed admitted.

8. On November 24 and 25, 2015, the United States mailed or caused to be mailed copies of the Court's Order to Show Cause, the government's Motion for Default Judgment, and supporting documents to last known addresses and/or legal representatives for Gulnara Karimova, Bekhzod Akhmedov, Alisher Ergashev, Rustam Madumarov, Gayane Avakyan, Shokrukh Sabirov, Expoline Limited, Swisdorn Limited, Takilant Limited, and First Global Investments. DN 15.

9. The Court's docket shows that no party or entity to whom the Court's Order to Show Cause and supporting documents were sent, as described above, has filed an affidavit or memorandum of law demonstrating why default judgment should not be entered, pursuant to Federal Rule of Civil Procedure 55.

10. The United States was not served with an affidavit or memorandum of law by any claimant before or after the Court's filing deadline of December 21, 2015, except that on or about January 4, 2016, the United States was contacted by email and phone by Richard J.

Holwell, Esq., who stated he represents the Republic of Uzbekistan and would seek an adjournment to file a claim on its behalf.

11. The United States entered into a stipulated motion with the counsel Republic of Uzbekistan, that the January 7, 2016 order to show cause hearing proceed as to all potential claimants, defendants, and other parties, but such hearing shall not proceed as to the Republic of Uzbekistan, so that the Republic of Uzbekistan may file notice of a claim to the Defendant Property.

12. The government has satisfied all of its obligations under the Supplemental Rules, and the time for potential claimants to the Defendant Property to become party to this action has expired. Accordingly, pursuant to Federal Rule of Civil Procedure 55 and based on the well-pleaded allegations in the government's Verified Complaint, the government respectfully requests that this Court enter partial default judgment. Consistent with that judgment, the government respectfully requests that the Court order that Gulnara Karimova, Bekhzod Akhmedov, Alisher Ergashev, Rustam Madumarov, Gayane Avakyan, Shokrukh Sabirov, Expoline Limited, Swisdorn Limited, Takilant Limited, First Global Investments, and all potential claimants, other than the Republic of Uzbekistan, who have not otherwise filed a claim to the Defendant Property are time-barred from contesting the forfeiture of the Defendant Property and default judgment should be entered against them. A revised proposed order accompanies this memorandum of law.

Dated: January 6, 2016

Respectfully submitted,

M. KENDALL DAY
CHIEF, ASSET FORFEITURE AND
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